CONFERENCE OF THE EIGHTEEN-NATION COMMITTEE ON DISARMAMENT

ENDC/264
21 August 1969
Original: ENGLISH

BRAZIL

Working Paper on the Control Provisions for a Treaty on the Non-Armament of the Sea-Bed and Ocean Floor

The Government of Brazil follows with great interest and high expectations the current negotiations in the Conference of the Eighteen Nation Committee on Disarmament concerning a Treaty on the non-armament of the sea-bed and ocean-floor. In the present stage of development of the technology for the exploration of the sea-bed, only a very limited number of States has the capacity to carry on large-scale activities in this environment. For this reason, the Government of Brazil regards with apprehension the possible implications of a Treaty on the non-armament of the sea-bed and the ocean-floor that could damage the interests of medium and small nations still lacking those technological resources. This possibility would in any case run counter principle five of the Statement of Agreed Principles on Disarmament Negotiations, of 20 September 1961, which asserts that: "All measures of general and complete disarmament should be balanced so that at no stage of the implementation of the Treaty could any State or group of States gain military advantage and that security is ensured equally for all". The Government of Brazil considers that Coastal States have sovereign and exclusive rights to explore and exploit the resources of their continental shelves. Thus it believes that none of these sovereign rights can be jeopardized or disregarded, directly or indirectly, as a consequence of an international Treaty on Disarmament. By creating a process of control of compliance with its objectives, a Treaty which prohibits the installations of weapons or weapon systems on the sea-bed can conceivably create such risks if utmost consideration is not given to the inclusion of appropriate provisions that would prevent these undesirable consequences. The Government of Brazil considers it indispensable that the future Treaty should safeguard the continental shelf of Member States from undue interferences which could materialize if the control provisions are not clearly formulated. It is indeed necessary to prevent situations where, under the allegation that a normal

GE.69-18795
69-19609

verification of compliance is being sought, operations would actually be deployed that could threaten the security and the sovereignty of the Coastal State or to violate its exclusive rights of exploitation of the continental shelf. Since there exists a substantial technological gap among Contracting Parties of a Treaty on the non-armament of the sea-bed and ocean-floor, it is possible to foresee several instances when the Coastal State will not be aware of operations that are going on its continental shelf and/or may be lacking the means to acquire firm assurances that these operations are permitted under International Law. To protect the security and the interest of medium and small nations, the Government of Brazil strongly urges that a provision be incorporated in the future Treaty on the non-armament of the sea-bed and ocean-floor with a view to effectively enable the Coastal State to participate in control operations that take place on its continental shelf. Such provision must not infringe rights recognized under international law, including the freedom of high seas, nor should they condition the carrying on of control procedures to the previous agreement or good-will of the Coastal State, so long as the control procedures do not involve actions which the Coastal State has the right, under existing positive or customary International Law, or according to the accepted doctrine, to limit or prevent, e.g. access of third States to installations on its continental shelf. In particular such provision should not require previous notification to the Coastal State when only a simple and casual observation in the normal course of navigation or overflight is to take place. However, the Coastal State should be previously notified of the intention of any other Party to implement its right of control by performing a legal but more comprehensive control on the continental shelf of the Coastal State concerned. This would enable the latter to exercise its right of co-participation in the operations thereby protecting its national interests and rights, without any hindrance to the process of control itself.